

**Introduced by Senator Torlakson**

February 3, 2003

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An act to amend Section 53084 of the Government Code, and to amend Section 33426.7 of the Health and Safety Code, relating to local government.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 114, as introduced, Torlakson. Financial assistance: relocation of automobile dealerships and big box retailers.

Existing law, until January 1, 2005, permits a redevelopment agency or a local agency, as defined, from providing any form of financial assistance to an automobile dealership or big box retailer, or a business entity that sells or leases land to an automobile dealership or big box retailer, that is relocating from the territorial jurisdiction of one community or local agency, to the territorial jurisdiction of another community or local agency, but within the same market area only if the receiving community or local agency offers the other community or local agency a contract that apportions sales tax generated by the dealership or retailer between the 2 communities or local agency, as specified, and the agency holds a public hearing and adopts a resolution making specified findings relating to whether or not a contract has been approved.

Existing law also requires the California Research Bureau to report to the Governor and the Legislature on or before January 1, 2004, regarding the implementation of these provisions.

This bill would extend indefinitely these prohibitions, but would eliminate the authority of a redevelopment agency or local agency to provide any form of financial assistance to an automobile dealership or big box retailer that is relocating from the territorial jurisdiction of one



community to the territorial jurisdiction of another community but within the same market area.

This bill would also delete the requirement that the California Research Bureau report to the Governor and the Legislature on or before January 1, 2004, regarding the implementation of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 53084 of the Government Code is  
2 amended to read:

3 53084. (a) Notwithstanding any other provision of this part,  
4 a local agency ~~shall~~ *may* not provide any form of financial  
5 assistance to an automobile dealership or big box retailer, or a  
6 business entity that sells or leases land to an automobile dealership  
7 or big box retailer, that is relocating from the territorial jurisdiction  
8 of one local agency to the territorial jurisdiction of another local  
9 agency but within the same market area, ~~unless the legislative body~~  
10 ~~of the local agency to which the relocation will occur offers the~~  
11 ~~contract to the local agency from which the relocation is occurring~~  
12 ~~pursuant to this section.~~

13 ~~(b) If the automobile dealership or big box retailer is relocating~~  
14 ~~within the same county, including both incorporated and~~  
15 ~~unincorporated territory, or to an adjacent county or a city within~~  
16 ~~an adjacent county, the local agency proposing to offer financial~~  
17 ~~assistance shall prepare a report that describes the market area for~~  
18 ~~the automobile dealership or big box retailer that is relocating. The~~  
19 ~~report shall include the information required to be contained in the~~  
20 ~~resolution pursuant to subdivision (c). The report shall refer to and~~  
21 ~~cite the independent literature, trade publications, and recognized~~  
22 ~~and established business policies and practices describing the~~  
23 ~~market area for the automobile dealership or big box retailer that~~  
24 ~~is relocating. The report shall conclude that the relocation is~~  
25 ~~occurring either within the same market area or outside the same~~  
26 ~~market area. The report shall be available to the public not later~~  
27 ~~than 45 days prior to the date of the public hearing required by~~  
28 ~~subdivision (d). In addition, the notice of the public hearing and~~

1 ~~the report shall be mailed to the local agency from which the~~  
2 ~~relocation is occurring.~~

3 ~~(c) (1) If the report prepared pursuant to subdivision (b)~~  
4 ~~concludes that the automobile dealership or big box retailer is~~  
5 ~~relocating within the same market area, at least 45 days prior to the~~  
6 ~~public hearing required pursuant to subdivision (d), the agency~~  
7 ~~shall notify the local agency from which the relocation is occurring~~  
8 ~~of its intent to give financial assistance and shall send to that local~~  
9 ~~agency a contract that has been approved by a two-thirds vote of~~  
10 ~~the legislative body of the local agency and that apportions the~~  
11 ~~sales tax generated from the automobile dealership or big box~~  
12 ~~retailer after the relocation between the two local agencies in the~~  
13 ~~following manner:~~

14 ~~(A) The annual amount of assistance shall be subtracted from~~  
15 ~~the annual sales tax.~~

16 ~~(B) The difference shall be divided equally between the two~~  
17 ~~local agencies for the first 10 fiscal years following the relocation.~~  
18 ~~However, in no event shall the local agency from which the~~  
19 ~~relocation is occurring receive more sales tax than it received from~~  
20 ~~the automobile dealership or big box retailer in the fiscal year prior~~  
21 ~~to the relocation.~~

22 ~~(C) After the first 10 fiscal years following the relocation, the~~  
23 ~~contract shall terminate and the apportionment shall end unless the~~  
24 ~~contract is extended by both local agencies.~~

25 ~~(2) The local agency from which the relocation is occurring~~  
26 ~~shall have 30 days after receipt of the contract to approve the~~  
27 ~~contract by enacting a resolution or ordinance approved by a~~  
28 ~~two-thirds vote of its legislative body.~~

29 ~~(d) Prior to a local agency giving any financial assistance to an~~  
30 ~~automobile dealership or big box retailer that is relocating, the~~  
31 ~~agency shall hold a public hearing. Notice of the time and place of~~  
32 ~~the public hearing shall be published in a newspaper of general~~  
33 ~~circulation in the local agency at least once per week for at least~~  
34 ~~three successive weeks, as specified in Section 6063 of the~~  
35 ~~Government Code, prior to the hearing.~~

36 ~~(e) The resolution approving financial assistance shall do all of~~  
37 ~~the following:~~

38 ~~(1) Identify the present name and, if different, the former name~~  
39 ~~of the relocating automobile dealership or big box retailer.~~

~~(2) Identify the address, including the local agency, from which the automobile dealership or big box retailer has moved or will move.~~

~~(3) Identify the address, including the local agency, to which the automobile dealership or big box retailer will move.~~

~~(4) Contain one of the following findings:~~

~~(A) That the automobile dealership or big box retailer is not relocating within the same market area.~~

~~(B) That the automobile dealership or big box retailer is relocating within the same market area but that a contract containing the terms specified in subdivision (c) has been approved by the local agency's legislative body, and offered to the local agency from which the relocation has occurred, which has approved the agreement, entered into another agreement acceptable to both local agencies, or has not accepted the proposed contract within the 30-day period.~~

~~These findings shall be final and conclusive as to all persons except for the automobile dealership or big box retailer that is the subject of the findings and the community from which the relocation has occurred, all of which may bring an action to challenge these findings.~~

~~(f)–~~

~~(b) As used in this section, the following terms have the following meaning:~~

~~(1) "Big box retailer" means a store of greater than 75,000 square feet of gross buildable area that will generate sales or use tax pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code.~~

~~(2) "Local agency" means a chartered or general law city, a chartered or general law county, or a city and county. "Local agency" does not include a redevelopment agency that is subject to Section 33426.7 of the Health and Safety Code.~~

~~(3) "Financial assistance" includes, but is not limited to, any of the following:~~

~~(A) Any appropriation of public funds, including loans, grants, or subsidies or the payment for or construction of parking improvements.~~

~~(B) Any tax incentive, including tax exemptions, rebates, reductions, or moratoria of a tax, including any rebate or payment~~

1 based upon the amount of sales tax generated from the automobile  
2 dealership or big box retailer.

3 (C) The sale or lease of real property at a cost that is less than  
4 fair market value.

5 (D) Payment for, forgiveness of, or reduction of fees.

6 (4) (A) “Market area” means a geographical area that is  
7 described in independent and recognized commercial trade  
8 literature, recognized and established business or manufacturing  
9 policies or practices, or publications of recognized independent  
10 research organizations as being an area that is large enough to  
11 support the location of the specific automobile dealership or the  
12 specific big box retailer that is relocating.

13 (B) With respect to an automobile dealership, a “market area”  
14 shall not extend further than 40 miles, as measured by the most  
15 reasonable route on roads between two points, starting from the  
16 location from which the automobile dealership is relocating and  
17 ending at the location to which the automobile dealership is  
18 relocating.

19 (C) With respect to a big box retailer, a “market area” shall not  
20 extend further than 25 miles, as measured by the most reasonable  
21 route on roads between two points, starting from the location from  
22 which the big box retailer is relocating and ending at the location  
23 to which the big box retailer is relocating.

24 (5) “Relocating” means the closing of an automobile  
25 dealership or big box retailer in one location and the opening of an  
26 automobile dealership or big box retailer in another location  
27 within a 365-day period when a person or business entity has an  
28 ownership interest in both the automobile dealership or big box  
29 retailer that has closed or will close and the one that is opening.  
30 “Relocating” does not mean and shall not include the closing of  
31 an automobile dealership or big box retailer because the  
32 automobile dealership or big box retailer has been or will be  
33 acquired or has been or will be closed as a result of the use of  
34 eminent domain.

35 ~~(g)~~

36 (c) This section does not apply to local agency assistance in the  
37 construction of public improvements that serve all or a portion of  
38 the jurisdiction of the local agency and that are not required to be  
39 constructed as a condition of approval of the automobile  
40 dealership or big box retailer. This section also does not prohibit

1 assistance in the construction of public improvements that are  
2 being constructed for a development other than the automobile  
3 dealership or big box retailer.

4 ~~(h) Notwithstanding Section 7550.5, on or before January 1,~~  
5 ~~2004, the California Research Bureau shall report to the~~  
6 ~~Legislature and the Governor regarding the implementation of this~~  
7 ~~section. The report shall identify the reports prepared pursuant to~~  
8 ~~subdivision (b), the contracts offered pursuant to subdivision (c),~~  
9 ~~and the resolutions approved pursuant to subdivision (c). The~~  
10 ~~report may include any additional information that the bureau~~  
11 ~~finds relevant. The report may also include recommendations for~~  
12 ~~legislative action, including, but not limited to, amending, or~~  
13 ~~extending the repeal date of, this section.~~

14 ~~(i)–~~

15 ~~(d) This section shall not apply to any financial assistance~~  
16 ~~provided by a local agency pursuant to a lease, contract,~~  
17 ~~agreement, or other enforceable written instrument entered into~~  
18 ~~between the local agency and an automobile dealership, big box~~  
19 ~~retailer, or a business entity that sells or leases land to an~~  
20 ~~automobile dealership or big box retailer, if the lease, contract,~~  
21 ~~agreement, or other enforceable written instrument was entered~~  
22 ~~into prior to December 31, 1999.~~

23 ~~(j) This section shall remain in effect only until January 1,~~  
24 ~~2005, and as of that date is repealed, unless a later enacted statute,~~  
25 ~~which is enacted before January 1, 2005, deletes or extends that~~  
26 ~~date.~~

27 SEC. 2. Section 33426.7 of the Health and Safety Code is  
28 amended to read:

29 33426.7. (a) Notwithstanding any other provision of this  
30 part, a redevelopment agency ~~shall~~ *may* not provide any form of  
31 financial assistance to an automobile dealership or big box retailer,  
32 or a business entity that sells or leases land to an automobile  
33 dealership or big box retailer, that is relocating from the territorial  
34 jurisdiction of one community to the territorial jurisdiction of  
35 another community but within the same market area, ~~unless the~~  
36 ~~legislative body of the community to which the relocation will~~  
37 ~~occur offers the contract to the community from which the~~  
38 ~~relocation is occurring pursuant to this section.~~

39 ~~(b) If the automobile dealership or big box retailer is relocating~~  
40 ~~within the same county, including both incorporated and~~

1 unincorporated territory, or to an adjacent county or a city within  
2 an adjacent county, the redevelopment agency proposing to offer  
3 financial assistance shall prepare a report that describes the market  
4 area for the automobile dealership or big box retailer that is  
5 relocating. The report shall include the information required to be  
6 contained in the resolution pursuant to subdivision (c). The report  
7 shall refer to and cite the independent literature, trade publications,  
8 and recognized and established business policies and practices  
9 describing the market area for the automobile dealership or big box  
10 retailer that is relocating. The report shall conclude that the  
11 relocation is occurring either within the same market area or  
12 outside the same market area. The report shall be available to the  
13 public not later than 45 days prior to the date of the public hearing  
14 required by subdivision (d). In addition, the notice of the public  
15 hearing and the report shall be mailed to the community from  
16 which the relocation is occurring.

17 (e) (1) If the report prepared pursuant to subdivision (b)  
18 concludes that the automobile dealership or big box retailer is  
19 relocating within the same market area, at least 45 days prior to the  
20 public hearing required pursuant to subdivision (d), the agency  
21 shall notify the community from which the relocation is occurring  
22 of its intent to give financial assistance and shall send to that  
23 community a contract that has been approved by a two-thirds vote  
24 of the legislative body of the agency and that apportions the sales  
25 tax generated from the automobile dealership or big box retailer  
26 after the relocation between the two communities in the following  
27 manner:

28 (A) The annual amount of assistance shall be subtracted from  
29 the annual sales tax.

30 (B) The difference shall be divided equally between the two  
31 communities for the first 10 fiscal years following the relocation.  
32 However, in no event shall the community from which the  
33 relocation is occurring receive more sales tax than it received from  
34 the automobile dealership or big box retailer in the fiscal year prior  
35 to the relocation.

36 (C) After the first 10 fiscal years following the relocation, the  
37 contract shall terminate and the apportionment shall end unless the  
38 contract is extended by both communities.

39 (2) The community from which the relocation is occurring  
40 shall have 30 days after receipt of the contract to approve the



~~1 contract by enacting a resolution or ordinance approved by a  
2 two-thirds vote of its legislative body.~~

~~3 (d) Prior to a redevelopment agency giving any financial  
4 assistance to an automobile dealership or big box retailer that is  
5 relocating, the agency shall hold a public hearing. Notice of the  
6 time and place of the public hearing shall be published in a  
7 newspaper of general circulation in the community at least once  
8 per week for at least three successive weeks, as specified in Section  
9 6063 of the Government Code, prior to the hearing.~~

~~10 (e) The resolution approving financial assistance shall do all of  
11 the following:~~

~~12 (1) Identify the present name and, if different, the former name  
13 of the relocating automobile dealership or big box retailer.~~

~~14 (2) Identify the address, including the city or county, from  
15 which the automobile dealership or big box retailer has moved or  
16 will move.~~

~~17 (3) Identify the address, including the city or county, to which  
18 the automobile dealership or big box retailer will move.~~

~~19 (4) Contain one of the following findings:~~

~~20 (A) That the automobile dealership or big box retailer is not  
21 relocating within the same market area.~~

~~22 (B) That the automobile dealership or big box retailer is  
23 relocating within the same market area but that a contract  
24 containing the terms specified in subdivision (e) has been  
25 approved by the agency's legislative body, and offered to the  
26 community from which the relocation has occurred, which has  
27 approved the agreement, entered into another agreement  
28 acceptable to both communities, or has not accepted the proposed  
29 contract within the 30-day period.~~

~~30 These findings shall be final and conclusive as to all persons  
31 except for the automobile dealership or big box retailer that is the  
32 subject of the findings and the community from which the  
33 relocation has occurred, all of which may bring an action to  
34 challenge these findings.~~

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~~36 (b) As used in this section, the following terms have the  
37 following meaning:~~

~~38 (1) "Big box retailer" means a store of greater than 75,000  
39 square feet of gross buildable area that will generate sales or use~~



1 tax pursuant to Part 1.5 (commencing with Section 7200) of  
2 Division 2 of the Revenue and Taxation Code.

3 (2) “Community” and “territorial jurisdiction” have the  
4 meanings specified in Sections 33002 and 33120, respectively.

5 (3) “Financial assistance” includes, but is not limited to, any  
6 of the following:

7 (A) Any appropriation of public funds, including loans, grants,  
8 or subsidies or the payment for or construction of parking  
9 improvements.

10 (B) Any tax incentive, including tax exemptions, rebates,  
11 reductions, or moratoria of a tax, including any rebate or payment  
12 based upon the amount of sales tax generated from the automobile  
13 dealership or big box retailer.

14 (C) The sale or lease of real property at a cost that is less than  
15 fair market value.

16 (D) Payment for, forgiveness of, or reduction of fees.

17 (4) (A) “Market area” means a geographical area that is  
18 described in independent and recognized commercial trade  
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20 policies or practices, or publications of recognized independent  
21 research organizations as being an area that is large enough to  
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23 specific big box retailer that is relocating.

24 (B) With respect to an automobile dealership, a “market area”  
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26 reasonable route on roads between two points, starting from the  
27 location from which the automobile dealership is relocating and  
28 ending at the location to which the automobile dealership is  
29 relocating.

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31 extend further than 25 miles, as measured by the most reasonable  
32 route on roads between two points, starting from the location from  
33 which the big box retailer is relocating and ending at the location  
34 to which the big box retailer is relocating.

35 (5) “Relocating” means the closing of an automobile  
36 dealership or big box retailer in one location and the opening of an  
37 automobile dealership or big box retailer in another location  
38 within a 365-day period when a person or business entity has an  
39 ownership interest in both the automobile dealership or big box  
40 retailer that has closed or will close and the one that is opening.

1 “Relocating” does not mean and shall not include the closing of  
2 an automobile dealership or big box retailer because the  
3 automobile dealership or big box retailer has been or will be  
4 acquired or has been or will be closed as a result of the use of  
5 eminent domain.

6 ~~(g)–~~

7 (c) This section does not apply to agency assistance in the  
8 construction of public improvements that serve all or a portion of  
9 a project area and that are not required to be constructed as a  
10 condition of approval of the automobile dealership or big box  
11 retailer. This section also does not prohibit assistance in the  
12 construction of public improvements that are being constructed for  
13 a development other than the automobile dealership or big box  
14 retailer.

15 ~~(h) Notwithstanding Section 7550.5 of the Government Code,~~  
16 ~~on or before January 1, 2004, the California Research Bureau shall~~  
17 ~~report to the Legislature and the Governor regarding the~~  
18 ~~implementation of this section. The report shall identify the~~  
19 ~~reports prepared pursuant to subdivision (b), the contracts offered~~  
20 ~~pursuant to subdivision (c), and the resolutions approved pursuant~~  
21 ~~to subdivision (e). The report may include any additional~~  
22 ~~information that the bureau finds relevant. The report may also~~  
23 ~~include recommendations for legislative action, including, but not~~  
24 ~~limited to, amending, or extending the repeal date of, this section.~~

25 ~~(i)–~~

26 (d) This section shall not apply to any financial assistance  
27 provided by a redevelopment agency pursuant to a lease, contract,  
28 agreement, or other enforceable written instrument entered into  
29 between the redevelopment agency and an automobile dealership,  
30 big box retailer, or a business entity that sells or leases land to an  
31 automobile dealership or big box retailer, if the lease, contract,  
32 agreement, or other enforceable written instrument was entered  
33 into prior to December 31, 1999.

34 ~~(j) This section shall remain in effect only until January 1,~~  
35 ~~2005, and as of that date is repealed, unless a later enacted statute,~~  
36 ~~which is enacted before January 1, 2005, deletes or extends that~~  
37 ~~date.~~